

REMARKS/ARGUMENTS

The Applicant hereby thanks the Examiner for the observations in the outstanding Office Action. Claims 9 and 10 are allowed; Claims 2-6 are allowable; Claim 6 is herein canceled, without prejudice; Claims 1, 2-5, 7, and 8 are herein amended to better encompass the full scope and breadth of the present invention, notwithstanding the Applicant's belief that the Claims would have been allowable as originally filed. The Applicant respectfully asserts that no claim has been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, reconsideration of the present application in light of the foregoing proposed amendment and these remarks is respectfully requested.

I. Rejection of Claims 1, 7, and 8 under 35 U.S.C. § 102(b)

Claims 1, 7, and 8 have been rejected, under 35 U.S.C. § 102(b), as being anticipated by Kissel (US 5350344). Claim 1 is herein amended by subsuming the limitations of herein canceled Claim 6. Since Claims 2-6 have been found allowable by the Examiner, Claims 7 and 8 are believed to be allowable by dependency. The Applicant hereby respectfully traverses this ground for rejection on this basis.

The Examiner concedes (Office Action, p. 3., para. 3): "The prior art of record fails to teach ... an incremental weight stack system, a selector plate, having a plurality of pins varying in radial distance on the selector plate, with each pin corresponding to [a] unique weight member in the stack." As such, the Applicant respectfully submits that Claim 6 would be allowable as originally filed, because Claim 6, prior to cancellation and by depending on Claim 1, already had all the allowable limitations conceded by the Examiner. However, in the interest of advancing the pending claims to allowance only, Claim 1 is herein amended by inserting the limitations of herein canceled Claim 6 as discussed, *supra*.

With regard to cited reference, the Applicant respectfully submits that Kissel does not teach the limitations of herein amended Claim 1, as conceded by the Examiner:

1. *An incremental weight system having a plurality of selectable weights, comprising:*

an incremental weight stack having a plurality of incremental weights, each of said incremental weights defining a slot;

a selector plate having a number of pins equal to a total number of said incremental weights with each pin uniquely corresponding to a single one of said plurality of incremental weights on a one-to-one basis so that each pin has a uniquely corresponding incremental weight and vice versa, each of said pins positioned on said selector plate to uniquely engage said slot of said corresponding incremental weight, said selector plate being proximate and adjacent said incremental weights so that said pins may selectably engage said slots and said selector plate being positionable so as to selectably and uniquely engage one or more of said incremental weights,

wherein said incremental weight stack offsets a radial distance from a center of said selector plate,

wherein each of said slots of said incremental weights is disposed at a different radial distance from said center of said selector plate,

wherein each of said pins is disposed at a different radial distance from said center of said selector plate, and

whereby displacing and turning said selector plate, individual ones of said incremental weights are engageable by a corresponding pin which is passable through a corresponding slot.

Thus, the Claims 1, 7, and 8 are believed to overcome this ground for rejection on this basis. Therefore, the Applicant respectfully requests that this ground for rejection on this basis be withdrawn and that Claims 1, 7, and 8 be passed to allowance.

II. Allowable Subject Matter in Claims 2-6, 9, and 10

The Applicant hereby thanks the Examiner for allowing Claims 9 and 10 as well as for finding allowable subject matter in Claims 2-6. Claim 6 is herein canceled; and Claim 1 is herein amended to subsume its limitations. Thus, Claims 2-5 are believed to be allowable. Therefore, Applicant respectfully requests that this ground for rejection on this basis be withdrawn and that Claims 2-5, 9, and 10 be passed to allowance.

PATENT

U.S. Patent Application Serial No. 10/776,098
Response to November 22, 2006, Office Action
Attorney Docket No. 03-12473

CONCLUSION


Accordingly, Claims 9 and 10 are allowed; Claims 2-6 are allowable; Claim 6 is herein canceled, without prejudice; Claims 1, 2-5, 7, and 8 are herein amended to better encompass the full scope and breadth of the present invention, notwithstanding the Applicant's belief that the Claims would have been allowable as originally filed. The Applicant respectfully reasserts that no claim has been narrowed within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Therefore, reconsideration of the present application in light of the foregoing amendment and these remarks is respectfully requested. *The Examiner is further cordially invited to telephone the undersigned for any reason which would advance allowance of the pending claims.*

In the event that any additional fees become due or payable, the Examiner is authorized to charge USPTO Deposit Account No. 03-2030 accordingly. A duplicate of this authorization is attached herewith.

Respectfully submitted,

CISLO & THOMAS LLP

Date: 12-22-06



Kelly W. Cunningham
Reg. No. 43,570

DMC/KWC/MLD:sc

Enclosure(s):

Acknowledgement Postcard
Copy of Authorization to Charge Deposit Account
Certificate of Mailing

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Tel: (310) 451-0647
Fax: (310) 394-4477
www.cislo.com

Z:\TMDocs\03-12473\Response to office action.DOC